

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

STEVEN L. WALKER)	
Claimant)	
VS.)	
)	Docket Nos. 155,443 & 166,487
THE BOEING COMPANY)	
Respondent)	
AND)	
)	
AETNA CASUALTY & SURETY)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

Claimant requests review of the Award rendered by Administrative Law Judge Nelsonna Potts Barnes on January 21, 1998. The Appeals Board heard oral argument August 26, 1998.

APPEARANCES

Beth Regier Foerster of Topeka, Kansas, appeared on behalf of claimant. Frederick L. Haag of Wichita, Kansas, appeared on behalf of respondent and its insurance carrier. John C. Nodgaard of Wichita, Kansas, appeared on behalf of the Kansas Workers Compensation Fund.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

Docket No. 155,443 relates to an injury to claimant's left forearm (hand and wrist) during the period from December 1986 to January 18, 1991. For this injury, the ALJ awarded benefits based on an 18.33 percent permanent partial disability to the left forearm.

Docket No. 166,487 relates to an injury to claimant's left leg which occurred in an automobile accident while claimant was on his way to Central Medical to receive treatment for the left forearm injury. The ALJ made a separate award for 13.83 percent loss of use of the left leg.

In both cases, the issues on appeal are:

1. What is the nature and extent of claimant's disability?
2. Should the disability be computed as one accident or two accidents?

Claimant contends the two injuries should be treated as one general body injury, citing Taylor v. Centex Construction Co., 191 Kan. 130, 379 P.2d 217 (1963). In the event the Board finds the injuries should be treated as two separate injuries, none of the parties dispute the impairment findings made by the ALJ. Claimant does, however, point out a math error in the award. For Docket No. 166,487, it appears the ALJ used 190 weeks, the schedule for lower leg, when in fact the calculations should be based on 200 weeks, the number of weeks for a leg.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Award by the ALJ should be modified only as to the number of weeks used to calculate the award in Docket No. 166,487. The Board adopts as its own the findings and conclusions by the ALJ but calculates the award in Docket No. 166,487 using 200 weeks rather than 190 weeks. Specifically, the Board makes the findings stated below.

Findings of Fact

1. Claimant suffered a series of compensable injuries to his left forearm ending January 18, 1991. These injuries resulted in an 18.33 percent impairment to claimant's left forearm.
2. Claimant suffered a compensable injury on October 31, 1991, to his left leg from an automobile accident while on his way to treatment for his left forearm. This injury resulted in a 13.83 percent impairment to claimant's left leg.

Conclusions of Law

1. Claimant's injuries should be treated as two separate injuries. Helms v. Tollie Freightways, Inc., 20 Kan. App. 2d 548, 889 P.2d 1151 (1995).
2. In Docket No. 155,443, claimant is entitled to benefits for an 18.33 percent disability to the left forearm.
3. In Docket No. 166,487, claimant is entitled to benefits for a 13.83 percent disability to the left leg.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Nelsonna Potts Barnes on January 21, 1998, should be, and is hereby, affirmed as to Docket No. 155,443, and modified as to Docket No. 166,487.

DOCKET No. 155,443

WHEREFORE AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Steven L. Walker, and against the respondent, The Boeing Company, and its insurance carrier, Aetna Casualty & Surety, for an accidental injury which occurred January 18, 1991, for 62 weeks of temporary total disability compensation at the rate of \$278 per week or \$17,236, followed by 25.03 weeks at the rate of \$278 per week or \$6,958.34 for an 18.33% permanent partial disability to the left forearm, making a total award of \$24,194.34, which is all due and owing, less any amounts previously paid.

The Appeals Board also approves and adopts all other orders entered by the Award not inconsistent herewith.

DOCKET No. 166,487

WHEREFORE AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR of the claimant, Steven L. Walker, and against the respondent, The Boeing Company, and its insurance carrier, Aetna Casualty & Surety, for an accidental injury which occurred October 31, 1991, for 18 weeks of temporary total disability compensation at the rate of \$289 per week or \$5,202, followed by 25.17 weeks at the rate of \$289 per week or \$7,274.13, for a 13.83% permanent partial disability to the left leg, making a total award of \$12,476.13, which is all due and owing, less any amounts previously paid.

The Appeals Board also approves and adopts all other orders entered by the Award not inconsistent herewith.

IT IS SO ORDERED.

Dated this ____ day of September 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Beth Regier Foerster, Topeka, KS
 Frederick L. Haag, Wichita, KS
 John C. Nodgaard, Wichita, KS
 Nelsonna Potts Barnes, Administrative Law Judge
 Philip S. Harness, Director